

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Petitioner,

V.

Case No.: 1:08-cv-00193

**JAMES LOUGHREY, CUSTODIAN OF
RECORDS AND TRUSTEE OF LOMA
SERVICES, INC. SIMPLE IRA PLAN,**

Respondent.

DECLARATION OF RAFAEL ALVAREZ

1. My name is Rafael Alvarez and I am a senior trial attorney for the Office of the Solicitor, United States Department of Labor.

2. On December, 10, 2007, I was assigned to review and assist in obtaining documents for an investigation of James Loughery, custodian of records and trustee of Loma Services, Inc. Simple IRA Plan being conducted by the Department's Employee Benefits Security Administration ("EBSA").

3. EBSA issued a subpoena duces tecum relating to the investigation of the Plan (the “Subpoena”). The Subpoena required Respondent to appear before Aniela B. Janachowski, Investigator, Employee Benefits Security Administration, United States Department of Labor, 200 West Adams Street, Suite 1600, Chicago, IL at 10:00 a.m. on the 17th day of April, 2007, and then and there to testify and produce designated books, records, and documents concerning matters within the scope of an investigation conducted pursuant to ERISA § 504(a)(1), 29 U.S.C. § 1134(a)(1).

4. On April 12, 2007, the Subpoena, referred to in paragraph 3, was duly served on Respondent by sending an original copy to the Respondent, James Loughrey, Custodian of Records and Trustee of the Plan.

5. Respondent failed and refused to appear, testify, and produce specified books, records, and documents, as required by the aforesaid Subpoena, has impeded and continues to impede a lawful investigation under the provisions of ERISA § 504(a)(1), 29 U.S.C. § 1134(a)(1).

6. Respondent's failure to comply with the Department's subpoena and his failure to obey the Court's order resulted in the Court's August 6, 2008 Order holding James Loughery in civil contempt, and order Respondent to compensate the Department for costs and fees.

7. From December 10, 2007 to August 6, 2008, I spent 28 hours working on this case, all of which were in pursuit of the subpoenaed documents.

8. The figures are based on the attached "Detail Case Activity" report (Attachment 1) derived from the Department's time distribution system, an internal software program with which all Department's attorneys time are required to record the time spent on an individual matter.

9. In order to calculate attorney's fees for purposes of recovering fees and costs, we utilized a formula prepared by the U.S. Department of Justice for use by U.S. Attorneys. The formula is described in a memorandum from the Justice Department's chief financial officer, which is attached hereto as Attachment 2.

10. The Justice Department fee formula requires a determination of an attorney's hourly rate, which is calculated by dividing the attorney's gross annual salary by 2,087 hours per

year (assuming a 40 hour work week). Added to that is a 23 percent benefit rate, and \$71.49 per hour for overhead. See Attachment 2.

11. During the relevant period, I had two different salaries, and thus two different hourly fee rates. A table showing the different salaries, the hours worked, and the hourly fee calculation is attached hereto as Attachment 3.

12. Applying the formula to the number of hours I have spent on this case, the Department's total fees and costs are 4,310.32.

13. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 26, 2008.

s/ Rafael Alvarez
RAFAEL ALVAREZ

ATTACHMENT 1

**U.S. DOL/SOL/OAMLS TIME DISTRIBUTION SYSTEM
COMBINED SOLAR/TD REPORTING**

DETAIL CASE ACTIVITY BY ATTORNEY

Case Number: 05000700898

Case Name: LOMA SERVICES SIMPLE IRA PLAN

Period: 8/6/2007 to 8/22/2008

Office Name: CHICAGO

Attorney Name	Date	Client	Statute	Task	Hours
ALVAREZ RAFAEL	12/10/2007	EBSA	ERISA	Legal Services	3.00
	12/12/2007	EBSA	ERISA	(Pre-Filing Work)	3.00
				Legal Services	3.00
Total for ALVAREZ RAFAEL					6.00

ALVAREZ RAFAEL

1/9/2008	EBSA	ERISA	Legal Services	(Filing of Complaint)	3.00
Total for ALVAREZ RAFAEL					3.00

22-Aug-08

MAY CONTAIN SENSITIVE INFORMATION

ATTACHMENT 1

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**U.S. DOL/SOL/OA/MLS TIME DISTRIBUTION SYSTEM
COMBINED SOLAR/TD REPORTING**

DETAIL CASE ACTIVITY BY ATTORNEY

Case Number: 05000700898

Case Name: LOMA SERVICES SIMPLE IRA PLAN

Period: 8/6/2007 to 8/22/2008

Office Name: CHICAGO

Attorney Name

Date	Client	Statute	Task	Hours
ALVAREZ RAFAEL				
3/3/2008	EBSA	ERISA	Legal Services	3.00
3/6/2008	EBSA	ERISA	Legal Services	2.00
Total for ALVAREZ RAFAEL				5.00

ALVAREZ RAFAEL

4/29/2008	EBSA	ERISA	Legal Services	3.00
4/30/2008	EBSA	ERISA	Legal Services (Court Appearance & Preparation)	3.00
Total for ALVAREZ RAFAEL				6.00

22-Aug-08

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**U.S. DOL/SOL/OAMLS TIME DISTRIBUTION SYSTEM
COMBINED SOLAR/TD REPORTING**

DETAIL CASE ACTIVITY BY ATTORNEY

Case Number: 05000700898

Case Name: LOMA SERVICES SIMPLE IRA PLAN(LOUGHREY)

Period: 8/6/2007 to 8/22/2008

Office Name: CHICAGO

Attorney Name	Date	Client	Statute	Task	Hours
ALVAREZ RAFAEL	5/6/2008	EBSA	ERISA	Legal Services	1.00
	Total for ALVAREZ RAFAEL				1.00

ALVAREZ RAFAEL

6/24/2008	EBSA	ERISA	Legal Services	2.00
Total for ALVAREZ RAFAEL				2.00

ALVAREZ RAFAEL

7/24/2008	EBSA	ERISA	Legal Services	2.00
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22-Aug-08

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DETAIL CASE ACTIVITY BY ATTORNEY

Case Number: 05000700898

Case Name: LOMA SERVICES SIMPLE IRA PLAN(LOUGHREY)

Period: 8/6/2007 to 8/22/2008

Office Name: CHICAGO

**U.S. DOL/SOL/OAMLS TIME DISTRIBUTION SYSTEM
COMBINED SOLAR/TD REPORTING**

Attorney Name	Date	Client	Statute	Task	Hours
Total for ALVAREZ RAFAEL					2.00

ALVAREZ RAFAEL

8/6/2008	EBSA	ERISA	Legal Services	(Court Appearance & Preparation)	3.00
Total for ALVAREZ RAFAEL					3.00

TOTAL 28.00

22-Aug-08

MAY CONTAIN SENSITIVE INFORMATION

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ATTACHMENT 2

From: Martemucci, Nancy
Sent: Wednesday, November 06, 2002 3:23 PM
To: USA-ao1; USA-ao2; USA-ao3; USA-ao4; USA-bo1; USA-bo2; USA-bo3
Subject: Computation of Attorney Fees

TO: ALL ADMINISTRATIVE OFFICERS
ALL BUDGET OFFICERS

FROM: Steven J. Parent
Chief Financial Officer

SUBJECT: Computation of Attorney Fees

ACTION REQUIRED: None. Information Only.

CONTACT PERSON: William S. Grant II
Budget Analyst
Resource Management and Planning
Phone: (202) 616-6886

This memorandum is intended to amend and update our earlier memorandum of August 25, 1999, regarding attorney fees. The basic formula as spelled out below remains the same, however the base Department overhead rate has increased from \$67.26 to \$71.49 based on the average Consumer Price Index increases the past few years.

This method of determining attorney fee rates assumes that there is no controlling case law and/or court rules for calculating attorney fees in a particular circuit. Where a circuit mandates a particular method of determining attorney fees, such as the "lodestar" method, then the district should follow the governing case law or rules, regardless of any difference between the generic method outlined below and the circuit's method.

The formula for computing the hourly attorney fee is as follows:

- AUSA's annual salary (base rate plus locality adjustment) divided by 2,087 hours = hourly salary rate.
- Hourly salary rate x 23% = hourly benefit rate.
- Hourly salary rate + hourly benefit rate + standard Department overhead rate (\$71.49) = hourly attorney fee rate.

For example, if an AUSA makes \$98,700, divide \$98,700 by 2,087 to get \$47.29, the hourly salary rate. Multiply \$47.29 by .23 to get \$10.88, the hourly benefit rate. Then add \$47.29, \$10.88, and \$71.49 to get \$129.66 which would be the hourly attorney fee rate for this particular AUSA.

Budget Officers may certify that rates based on this computation are accurate if such is required by the court.

ATTACHMENT 3

ATTACHMENT 3

FEE COMPUTATION

Elaine L. Chao v. James Loughrey, Case No.: 1:08-CV-00193

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